



## IN THE 21ST JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI

Judge or Division: JOSEPH SHOCKLEE DUEKER	Case Number: 17SL-CC03795
Plaintiff/Petitioner: WALLACE H. HERR	Plaintiff's/Petitioner's Attorney/Address: DALE ROBERT FUNK 409 CANAL ST PLANTSVILLE, CT 06479
Defendant/Respondent: ERIC HARR	Court Address: ST LOUIS COUNTY COURT BUILDING 105 SOUTH CENTRAL AVENUE CLAYTON, MO 63105
Nature of Suit: CC Other Tort	

(Date File Stamp)

**Summons for Personal Service Outside the State of Missouri  
(Except Attachment Action)**

The State of Missouri to: ERIC HARR

Alias:

7508 TRIPLE LAKES ROAD  
E. CARONDOLET, IL 62240

COURT SEAL OF



ST. LOUIS COUNTY

You are summoned to appear before this court and to file your pleading to the petition, copy of which is attached, and to serve a copy of your pleading upon the attorney for the Plaintiff/Petitioner at the above address all within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to file your pleading, judgment by default will be taken against you for the relief demanded in this action.

**SPECIAL NEEDS:** If you have special needs addressed by the Americans With Disabilities Act, please notify the Office of the Circuit Clerk at 314-615-8029, FAX 314-615-8739 or TTY at 314-615-4567, at least three business days in advance of the court proceeding.

16-OCT-2017

Date

Further Information:

LNG

*[Signature]*  
Clerk

## Officer's or Server's Affidavit of Service

I certify that:

- I am authorized to serve process in civil actions within the state or territory where the above summons was served.
- My official title is \_\_\_\_\_ of \_\_\_\_\_ County, \_\_\_\_\_ (state).
- I have served the above summons by: (check one)
  - ☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.
  - ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with \_\_\_\_\_, a person of the Defendant's/Respondent's family over the age of 15 years.
  - ☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to \_\_\_\_\_ (name) \_\_\_\_\_ (title).
  - ☐ other (describe) \_\_\_\_\_

Served at \_\_\_\_\_ (address)  
in \_\_\_\_\_ County, \_\_\_\_\_ (state), on \_\_\_\_\_ (date) at \_\_\_\_\_ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Subscribed and Sworn To me before this \_\_\_\_\_ (day) \_\_\_\_\_ (month) \_\_\_\_\_ (year)

I am: (check one)

- ☐ the clerk of the court of which affiant is an officer.
- ☐ the judge of the court of which affiant is an officer.
- ☐ authorized to administer oaths in the state in which the affiant served the above summons. (use for out-of-state officer)
- ☐ authorized to administer oaths. (use for court-appointed server)

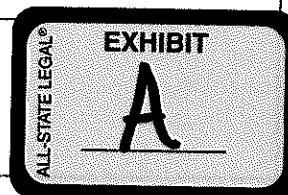
(Seal)

Signature and Title

## Service Fees, if applicable

Summons \$ \_\_\_\_\_  
Non Est \$ \_\_\_\_\_  
Mileage \$ \_\_\_\_\_ ( \_\_\_\_\_ miles @ \$ \_\_\_\_\_ per mile)  
Total \$ \_\_\_\_\_

See the following page for directions to clerk and to officer making return on service of summons.



IN THE CIRCUIT COURT OF  
ST. LOUIS COUNTY, MISSOURI

NICOLE M. HARR as guardian for  
WALLACE H. HARR, an incapacitated  
and disabled person.

Plaintiff,

vs.

ERIC HARR

Serve: 7508 Triple Lakes Road  
E. Carondolet, IL 62240

and

TERRY HARR

Serve: 731 Dupo Avenue  
E. Carondolet, IL 62240

Defendants.

Cause No.:

Division:

PETITION

COMES NOW, Plaintiff, Nicole M. Harr, as guardian (16SL-PR03678) for Wallace H. Harr, an incapacitated and disabled person, through counsel, Dale R. Funk of Dale Funk and Associates, LLC, and states as follows for her petition against Defendants Eric Harr and Terry Harr:

1. Wallace H. Harr lived at 2701 Yaeger in St. Louis County 63129 until approximately July 15, 2016.
2. On or around July 15, 2016, Defendants forcibly moved Wallace H. Harr to a double-wide trailer in East Carondolet, Illinois.
3. While living in East Carondolet, Wallace H. Harr reported to guardian Nicole M. Harr verbal as well as physical abuse and intimidation by Defendants.

4. On or around August 7, 2016, Wallace H. Horr moved to guardian Nicole M. Horr's house in St. Louis, County.

5. On approximately September 21, 2016, Wallace H. Horr's property at 2701 Yaeger sold funding a joint bank account at First Community Credit Union (hereafter "joint account") in the name of Wallace H. Horr and Nicole M. Horr and allowing Wallace H. Horr to purchase a condo at 10131 Sakura Drive in St. Louis, County.

6. On October 19, 2017, Defendants forcibly picked up Wallace H. Horr from his condo at 10131 Sakura Drive in St. Louis County and drove him to the local First Community Credit Union and, through threats and intimidation had him transfer \$45,000.00 from the joint account to a bank account owned and controlled by Defendants.

7. On October 20, 2017, Defendants forcibly picked up Wallace H. Horr from his condo at 10131 Sakura Drive in St. Louis County and drove him to the local First Community Credit Union and, through threats and intimidation had him withdraw \$22,000.00 and give it to Defendants.

8. On or around January 21, 2017, Wallace H. Horr moved to a nursing home called the Big River at Cedar Hill in St. Louis County.

9. On February 15, 2017 Defendants forged Wallace H. Horr's signature on a check from the joint account for \$4,000.00 and made out to Defendant Terry Harr's company in Florida, MPB Construction.

10. On February 15, 2017 Defendants forged Wallace H. Horr's signature on a check from the joint account for \$5,908.00 made out to Kutis Funeral Home and set Defendants only as people to whom the money could be refunded to (not even Wallace H. Horr himself can get a

refund of moneys paid). Wallace H. Horr needs to pay for no funeral services as his is a combat veteran of the United States Military.

11. While Wallace H. Horr lived at the nursing home, Defendants visited and verbally abused him including screaming at him and threatening him to the point where Defendants had to be banned from visiting by staff at Big River at Cedar Hill.

12. On or around May 10, 2017, Wallace H. Horr moved back into the home of guardian Nicole M. Horr in St. Louis County.

13. Wallace H. Horr is a combat veteran of the United States Military.

14. At all times relevant to this cause of action Wallace H. Horr was an elderly or disabled person.

15. Despite due demand, Defendants have refused to return the money to Wallace H. Horr.

**COUNT I - FINANCIAL EXPLOITATION BY ERIC HARR**

1.-15. Plaintiff restates and re-alleges paragraphs 1. – 15. As if specifically stated herein.

16. Defendant Eric Harr obtained control over the property of Wallace H. Horr with the intent to permanently deprive Wallace H. Horr of the use benefit or possession of his property and thereby benefited himself and detrimentally affected Wallace H. Horr by one or more of the following methods:

- A. Deceit;
- B. Coercion;
- C. Preventing another person from acquiring information pertinent to the disposition of the property involved;
- D. Selling or otherwise transferring or encumbering property;

E. Promising performance which Defendant does not intend to perform or knows will not be performed; and

F. Undue Influence.

17. As a proximate result of the financial exploitation by Eric Harr above, Wallace H. Horr has been damaged by the loss of \$76,908.00.

18. The conduct of Eric Harr was intentional and/or showed completed indifference or conscious disregard for Wallace H. Horr sufficient to support an award of punitive damages.

ACCORDINTLY, Plaintiff, through counsel, prays for judgment against Eric Harr on Count I of this petition for compensatory damages in the amount of \$76,908.00 plus interest, attorneys fees, costs, and punitive damages, and for all such other relief as this court deems just and proper under the circumstances.

**COUNT II - FINANCIAL EXPLOITATION BY TERRY HARR**

1.-18. Plaintiff restates and re-alleges paragraphs 1. – 18. As if specifically stated herein.

19. Defendant Terry Harr obtained control over the property of Wallace H. Horr with the intent to permanently deprive Wallace H. Horr of the use benefit or possession of his property and thereby benefited himself and detrimentally affected Wallace H. Horr by one or more of the following methods:

- A. Deceit;
- B. Coercion;
- C. Preventing another person from acquiring information pertinent to the disposition of the property involved;
- D. Selling or otherwise transferring or encumbering property;

E. Promising performance which Defendant does not intend to perform or knows will not be performed; and

F. Undue Influence.

20. As a proximate result of the financial exploitation by Terry Harr above, Wallace H. Horr has been damaged by the loss of \$76,908.00.

21. The conduct of Terry Harr was intentional and/or showed completed indifference or conscious disregard for Wallace H. Horr sufficient to support an award of punitive damages.

ACCORDINTLY, Plaintiff, through counsel, prays for judgment against Terry Harr on Count II of this petition for compensatory damages in the amount of \$76,908.00 plus interest, attorneys fees, costs, and punitive damages, and for all such other relief as this court deems just and proper under the circumstances.

RESPECTFULLY SUBMITTED

BY:



Dale R. Funk, #65326  
Dale Funk and Associates, LLC  
3024 S. Jefferson Ave.  
Saint Louis, MO 63118  
(314) 438-3865  
(203) 905-6751 (fax)  
dale@dalefunklaw.com

Attorney for Plaintiff

IN THE CIRCUIT COURT OF  
ST. LOUIS COUNTY, MISSOURI

NICOLE M. HERR,	)	
	)	
NICOLE M. HERR as guardian for	)	
WALLACE H. HERR, an incapacitated	)	Cause No.: 17SL-CC03795
and disabled person.	)	
	)	
and	)	Division: 4
	)	
WALLACE H. HERR	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
ERIC HARR	)	
	)	
and	)	
	)	
TERRY HARR	)	
	)	
Defendants.	)	

**AMENDED PETITION**

COME NOW, Plaintiffs, Nicole M. Horr, Nicole M. Horr, as guardian (16SL-PR03678) for Wallace H. Horr, an incapacitated and disabled person, and Wallace Horr through counsel, Dale R. Funk of Dale Funk and Associates, LLC, and state as follows for their petition against Defendants Eric Harr and Terry Harr:

1. Wallace H. Horr lived at 2701 Yaeger in St. Louis County 63129 until approximately July 15, 2016.
2. On or around July 15, 2016, Defendants forcibly moved Wallace H. Horr to a double-wide trailer in East Carondolet, Illinois.
3. While living in East Carondolet, Wallace H. Horr reported to guardian Nicole M. Horr verbal as well as physical abuse and intimidation by Defendants.

4. On or around August 7, 2016, Wallace H. Horr moved to guardian Nicole M. Horr's house in St. Louis, County.

5. On approximately September 21, 2016, Wallace H. Horr's property at 2701 Yaeger sold funding a joint bank account at First Community Credit Union (hereafter "joint account") in the name of Wallace H. Horr and Nicole M. Horr and allowing Wallace H. Horr to purchase a condo at 10131 Sakura Drive in St. Louis, County.

6. On October 19, 2017, Defendants forcibly picked up Wallace H. Horr from his condo at 10131 Sakura Drive in St. Louis County and drove him to the local First Community Credit Union in St. Louis County and, through threats and intimidation had him transfer \$45,000.00 from the joint account to a bank account owned and controlled by Defendants.

7. On October 20, 2017, Defendants forcibly picked up Wallace H. Horr from his condo at 10131 Sakura Drive in St. Louis County and drove him to the local First Community Credit Union in St. Louis County and, through threats and intimidation had him withdraw \$22,000.00 cash and give it to Defendants.

8. On or around January 21, 2017, Wallace H. Horr moved to a nursing home called the Big River at Cedar Hill in St. Louis County.

9. On February 15, 2017 Defendants forged Wallace H. Horr's signature on a check from the joint account for \$4,000.00 and made out to Defendant Terry Harr's company in Florida, MPB Construction.

10. On February 15, 2017 Defendants forged Wallace H. Horr's signature on a check from the joint account for \$5,908.00 made out to Kutis Funeral Home and set Defendants only as people to whom the money could be refunded to (not even Wallace H. Horr himself can get a



refund of moneys paid). Wallace H. Horr needs to pay for no funeral services as he is a combat veteran of the United States Military.

11. While Wallace H. Horr lived at the nursing home, Defendants visited and verbally abused him including screaming at him and threatening him to the point where Defendants had to be banned from visiting by staff at Big River at Cedar Hill.

12. On or around May 10, 2017, Wallace H. Horr moved back into the home of guardian Nicole M. Horr in St. Louis County.

13. Wallace H. Horr is a combat veteran of the United States Military.

14. At all times relevant to this cause of action Wallace H. Horr is and was an elderly or disabled person.

15. Despite due demand, Defendants have refused to return the money to Wallace H. Horr.

**COUNT I - FINANCIAL EXPLOITATION BY ERIC HARR**

1.-15. Plaintiff restates and re-alleges paragraphs 1. – 15. As if specifically stated herein.

16. Defendant Eric Harr obtained control over the property of Plaintiffs with the intent to permanently deprive them of the use benefit or possession of the property and thereby benefited himself and detrimentally affected Plaintiffs by one or more of the following methods:

- A. Deceit;
- B. Coercion;
- C. Preventing another person from acquiring information pertinent to the disposition of the property involved;
- D. Selling or otherwise transferring or encumbering property;

E. Promising performance which Defendant does not intend to perform or knows will not be performed; and

F. Undue Influence.

17. As a proximate result of the financial exploitation by Eric Harr above, Plaintiffs have been damaged by the loss of \$76,908.00.

18. The conduct of Eric Harr was intentional and/or showed completed indifference or conscious disregard for Plaintiffs sufficient to support an award of punitive damages.

ACCORDINTLY, Plaintiffs, through counsel, prays for judgment against Eric Harr on Count I of this petition for compensatory damages in the amount of \$76,908.00 plus interest, attorneys fees, costs, and punitive damages, and for all such other relief as this court deems just and proper under the circumstances.

**COUNT II - FINANCIAL EXPLOITATION BY TERRY HARR**

1.-18. Plaintiff restates and re-alleges paragraphs 1. – 18. As if specifically stated herein.

19. Defendant Terry Harr obtained control over the property of Plaintiffs with the intent to permanently deprive them of the use benefit or possession of the property and thereby benefited himself and detrimentally affected Plaintiffs by one or more of the following methods:

- A. Deceit;
- B. Coercion;
- C. Preventing another person from acquiring information pertinent to the disposition of the property involved;
- D. Selling or otherwise transferring or encumbering property;
- E. Promising performance which Defendant does not intend to perform or knows will not be performed; and

F. Undue Influence.

20. As a proximate result of the financial exploitation by Terry Harr above, Plaintiffs have been damaged by the loss of \$76,908.00.

21. The conduct of Terry Harr was intentional and/or showed completed indifference or conscious disregard for Plaintiffs sufficient to support an award of punitive damages.

ACCORDINTLY, Plaintiffs, through counsel, prays for judgment against Terry Harr on Count II of this petition for compensatory damages in the amount of \$76,908.00 plus interest, attorneys fees, costs, and punitive damages, and for all such other relief as this court deems just and proper under the circumstances.

**COUNT III – CONVERSION OF MONIES**

1.-21. Plaintiffs restate and re-allege counts 1 through 21 of this petition as if specifically set forth herein.

22. Without permission or justifiable reason, Defendants took \$76,908.00 out of a joint bank account in the names of Plaintiffs.

23. Despite due demand, Defendants have refused to return the money.

24. Defendants have stolen the money from Plaintiffs.

25. The conduct of Defendants in converting the money was intentional and/or shower complete indifference or conscious disregard for Plaintiffs sufficient to support an award of punitive damages.

ACCORDINGLY, Plaintiffs, through counsel, pray for judgment against Defendants on Count III of this petition for compensatory in the amount of \$76,908.00 plus interest, attorneys fees, costs, and punitive damages, and for all such other relief as this court deems just and proper under the circumstances.

RESPECTFULLY SUBMITTED

BY: /s/ Dale R. Funk  
Dale R. Funk, #65326  
Dale Funk and Associates, LLC  
3024 S. Jefferson Ave.  
Saint Louis, MO 63118  
(314) 438-3865  
(203) 905-6751 (fax)  
dale@dalefunklaw.com

Attorney for Plaintiff

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true a correct copy of the foregoing was served on all parties of record by depositing the same in the U.S. Mail on this 1<sup>st</sup> day of November, 2017 and addressed to the following parties of record:

Eric Harr  
7508 Triple Lake Road  
E. Carondolet, IL 62240

Terry Harr  
731 Dupo Ave  
E. Carondolet, IL 62240

/s/ Dale R. Funk

IN THE CIRCUIT COURT OF THE STATE OF MISSOURI  
COUNTY OF ST. LOUIS

NICOLE M. HERR as guardian for  
WALLACE H. HERR, an incapacitated  
and disabled person.

Plaintiff,

vs.

ERIC HERR

and

TERRY HERR

Defendants.

USDC Case No.: 17-2716

Case No. 17SL-CC03795

**DEFENDANTS DEMAND  
TRIAL BY JURY**

**NOTICE TO STATE COURT OF FILING NOTICE OF REMOVAL**

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1441, 1446 and E.D. Mo. L.R. 2.03, Defendants Eric Herr and Terry Herr by and through undersigned counsel, filed a Notice of Removal with the United States District for the Eastern District of Missouri, Eastern Division, removing this matter to federal court. A copy of the Notice of Removal, without exhibits, is attached hereto as Exhibit A.

Respectfully submitted,

DATED: November 15, 2017

GREENSFELDER, HEMKER & GALE, P.C.

By: /s/ Donald K. Schoemaker  
Donald K. Shoemaker, MO #39084  
[dksgreensfelder.com](mailto:dksgreensfelder.com)  
Alexa M. Callahan, MO #69991  
[acallahan@greensfelder.com](mailto:acallahan@greensfelder.com)  
12 Wolf Creek Drive, Suite 100  
Belleville, Illinois 62226  
Telephone: (618) 257-7308  
Facsimile: (618) 257-7353

*Attorneys for Defendants  
Eric Herr and Terry Herr*

**CERTIFICATE OF SERVICE**

The undersigned certifies that on this 15th day of November, 2017, the foregoing document was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system upon all counsel of record.

/s/ Donald K. Schoemaker



*James H. Wilson*  
Circuit Clerk

*Kathleen M. Lodey*  
Deputy Circuit Clerk